

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEAN SCOTT, TAKERIA SCOTT, an infant by her m/n/g
DESIREE SCOTT, & DESIREE SCOTT,
individually, BRENT RIDGE & CLYDE FEASTER

07 CV 6920

Plaintiffs

-against-

SECOND AMENDED
COMPLAINT
PLAINTIFFS DEMAND
TRIAL BY JURY

THE CITY OF NEW YORK, DETECTIVE GEORGE
TSANGARIS, DETECTIVE ANTHONY BACHILLER
Shield # 6506 & POLICE OFFICER
JOHN DOE 1-15

Defendants

-----X
THIS MATTER IS ASSIGNED TO JUDGE SULLIVAN

THIS DOCUMENT WAS FILED ELECTRONICALLY

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
DEAN SCOTT

1. This is a civil action for damages brought pursuant to redress the deprivation by defendants of the rights secured to plaintiff under the Constitution and laws of the United States and State of New York. The defendants, upon information & belief, without a warrant and without probable cause, unlawfully entered the home of, assaulted, arrested and falsely imprisoned the plaintiffs.

2. That the jurisdiction of this Court is invoked under the provisions of Section 1331 & 1383 of Title 28 and Sections 1983 & 1988 of Title 42 of the United States Code . Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law. The amount in controversy exceeds \$75,000.00 excluding costs and attorney's fees.

3. That at all times hereinafter mentioned the plaintiff DEAN SCOTT was and still is a resident of the County of Queens, City & State of New York.

4. Upon information and belief the defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under the laws of the City and State of New York.

5. That the defendant DETECTIVE GEORGE TSANGARIS was & is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

6. That the defendant DETECTIVE ANTHONY BACHILLER, Shield # 6506 was & is an agent, servant and employee of the defendant THE CITY OF NEW YORK.

7. That the defendants POLICE OFFICERS JOHN DOE 1-15 were & are agents, servants and employees of the defendant THE CITY OF NEW YORK.

8. That the plaintiff did on or about the twenty-seventh day of February, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

9. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

10. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions precedent to the commencement of this action.

11. That on or about the 12th day of February, 2007 the plaintiff DEAN SCOTT was present at his home at inside of 40-12 10th Street, Long Island City, New York, County of Queens, City & State of New York.

12. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

13. That by reason of the foregoing the plaintiff suffered serious and severe physical & psychological injuries some of which, upon information & belief are permanent in nature.

14. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF DEAN SCOTT

15. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

16. That after the aforementioned accosting, assault & arrest of the plaintiff by the defendants, the plaintiff was taken from his home, falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers, who were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately twenty four hours.

17. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
DEAN SCOTT

18. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "12" with the same force and effect as if more fully set forth at length herein.

19. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

20. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

21. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF DEAN SCOTT

22. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

23. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

24. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
TAKIERA SCOTT

25. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" inclusive with the same force and effect as if more fully set forth at length herein.

26. That the plaintiff DESIREE SCOTT is the mother and natural guardian of the plaintiff TAKIERA SCOTT

27. That the plaintiffs TAKIERA SCOTT & DESIREE SCOTT are residents of the county of Queens, City & state of New York

28. That the plaintiff did on or about the twenty-seventh day of February, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

29. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

30. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions precedent to the commencement of this action.

31. That on or about the 10th day of February, 2007 the plaintiff TAKIERA SCOTT was present inside her home at 40-12 10th Street, Long Island City, County of Queens, City & state of New York.

32. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, arrested & detained by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

33. That by reason of the foregoing the plaintiff suffered serious and severe psychological injuries some of which, upon information & belief are permanent in nature.

34. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SIXTH CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFF TAKIERA SCOTT by her m/n/g DESIREE
SCOTT

35. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", "25" - "33" inclusive, with the same force and effect as if more fully set forth at length herein.

36. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately three hours.

37. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SEVENTH CAUSE OF ACTION ON BEHALF OF THE
PLAINTIFF TAKIERA SCOTT by her m/n/g DESIREE SCOTT

38. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" & "26" - "33" inclusive with the same force and effect as if more fully set forth at length herein.

39. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search

& seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

40. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

41. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A EIGHTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF TAKIERA SCOTT by her m/n/g
DESIREE SCOTT

42. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" & "25" - "33" inclusive with the same force and effect as if more fully set forth at length herein.

43. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

44. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A NINTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
DESIREE SCOTT

45. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" inclusive with the

same force and effect as if more fully set forth at length herein.

46. That the plaintiff did on or about the twenty-seventh day of February, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

47. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions precedent to the commencement of this action.

48. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

49. That on or about the 12th day of February, 2007 the plaintiff was present at her home at 40-12 10th Street, Long Island City, County of Queens, City & State of New York.

50. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

51. That by reason of the foregoing the plaintiff suffered serious and severe psychological injuries some of which, upon information & belief are permanent in nature.

52. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A TENTH CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFF DESIREE SCOTT

53. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", "45" - "51" inclusive with the same force and effect as if more fully set forth at length herein.

54. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately three hours.

55. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A ELEVENTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF DESIREE SCOTT

56. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7 " & "45" - "51" inclusive with the same force and effect as if more fully set forth at length herein.

57. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

58. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law

did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

59. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A TWELVTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF DESIREE SCOTT

60. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" & "45" - "51" inclusive with the same force and effect as if more fully set forth at length herein.

61. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

62. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A THITEENTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF BRENT RIDGE

63. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", with the same force and effect as if more fully set forth at length herein.

64. That the plaintiff did on or about the twenty-seventh day of February, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

65. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

66. That more than ninety days have elapsed since the service of said Notice of Claim upon the defendant and the plaintiff has complied with all conditions precedent to the commencement of this action.

67. That on or about the 12th day of February, 2007 the plaintiff was present inside of 40-12 10th Street, Long Island City, County of Queens, City & State of New York.

68. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

69. That by reason of the foregoing the plaintiff suffered serious and severe psychological injuries some of which, upon information & belief are permanent in nature.

70. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FOURTEENTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF BRENT RIDGE

71. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" & "63" - "69" inclusive with the same force and effect as if more fully set forth at length herein.

72. That after the aforementioned accosting and assault of the plaintiff by

the defendants, the plaintiff was falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately three hours.

73. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FIFTEENTH CAUSE OF ACTION ON BEHALF
OF THE PLAINTIFF BRENT RIDGE

74. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" & "63" - "69" inclusive with the same force and effect as if more fully set forth at length herein.

75. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

76. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

77. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SIXTEENTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF BRENT RIDGE

78. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", "63" - "69" inclusive with the same force and effect as if more fully set forth at length herein.

79. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

80. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SEVENTEENTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF CLYDE FEASTER

81. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", with the same force and effect as if more fully set forth at length herein.

82. That at all times hereinafter mentioned, the plaintiff CLYDE FEASTER was and still is a resident of the County of Kings, City & State of New York.

83. That the plaintiff did on or about the twenty-seventh day of February, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

84. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

85. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions

precedent to the commencement of this action.

86. That on or about the 12th day of February, 2007 the plaintiff CLYDE FEASTER was present inside of 40-12 10th Street, Long Island City, New York, County of Queens, City & State of New York.

87. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

88. That by reason of the foregoing the plaintiff suffered serious and severe physical & psychological injuries some of which, upon information & belief are permanent in nature.

89. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A EIGHTHTEENTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF CLYDE FEASTER

90. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7" "81" - "88" inclusive with the same force and effect as if more fully set forth at length herein.

91. That after the aforementioned accosting, assault & arrest of the plaintiff by the defendants, the plaintiff was taken from his home, falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers, who were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately twenty four hours.

92. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A NINETEENTH CAUSE OF ACTION ON BEHALF OF THE
PLAINTIFF CLYDE FEASTER

93. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", "81" - "88" inclusive with the same force and effect as if more fully set forth at length herein.

94. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

95. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

96. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A TWENTIETH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF CLYDE FEASTER

97. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "7", "81" - "88" inclusive with the same force and effect as if more fully set forth at length herein.

98. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named

defendants.

AS AND FOR A TWENTY FIRST CAUSE OF ACTION ON
BEHALF OF ALL THE PLAINTIFFS

99. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "97" with the same force and effect as if more fully set forth at length herein.

100. That the injuries & damages as aforesaid were the result of the customs & practices of the defendant the CITY OF NEW YORK, its agents, servants & employees.

101. That by reason of the foregoing the plaintiffs have suffered damage & injury in the sum of FIVE MILLION DOLLARS.

WHEREFORE, the plaintiff respectfully preys to the court for judgment upon each cause of action as follows:

- a. Compensatory damages in an amount which this Court shall consider to be just and fair:
- b. Punitive and exemplary damages in an amount which this Court shall consider to be just & fair;
- c. Attorney's fees in an amount which this Court shall consider just & fair;

d. Together with the costs and disbursements of this action and such other and further relief which this Court may seem just & proper.

DATED: BROOKLYN, NY
January 30, 2008

MICHAEL COLIHAN (MC-0826)
Attorney for the Plaintiff
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